G. L. BLACKSTONE & ASSOCIATES LLC

M E M O R A N D U M {D R A F T}

TO: **Real Estate Committee Co-Chairs Dennis Robertson & Chuck Lesnick**

FROM: **G. Lamont Blackstone**

DATE: **December 7, 2007**

RE: **Completeness Review of the TIF Feasibility Study Draft for the SFC Project**

This report provides my comments on the TIF feasibility study submitted by the Applicant and required under the Municipal Redevelopment Law. While this consultant believes there is a compelling case for the use of tax increment financing at some level to facilitate the public-private partnership proposed for downtown Yonkers, the developers' submission is deemed incomplete as cited below. In addition to the following comments, I strongly recommend that the study be organized as a stand-alone document that can be reviewed by Council members, the bond underwriters, County authorities, the State Comptroller and other appropriate stakeholders without the necessity of referral to applicable sections of the DEIS. Items of the study that should be treated as confidential information (e.g., letters of intent and project financial projections such as the development pro forma and projected returns) could be incorporated in an appendix made available to a restricted audience.

Introduction

1. The estimate of the total costs of the infrastructure improvements should be updated based on the work of the Bluestone analysis. Those estimates exceed the $160,000,000 cited on page 1.
2. Incorporate data regarding the actual deficient condition of the current road and utility systems. For example, opinions from the City's engineering staff or consultants should be cited regarding the current condition of utility systems (e.g., storm water and sewer) and why they are inadequate for the proposed development or any alternative development in downtown Yonkers of significant scale.

Blight Findings

1. Portions of the study area were previously the subject of blight findings under the Getty Square Urban Renewal Plan and the Riverview Urban Renewal Plan. Provide details regarding the basis for those previous findings and whether area conditions have significantly changed since those previous findings.
2. Additional comments on the blight findings will be submitted in a separate memorandum.

Tax Rate Neutrality

1. In Section V of the TIF study, the developer responds to previously cited public concerns regarding the potential for property taxes to rise on non-SFC properties as a result of establishment of the proposed TIF district. It should be clarified what level of physical renovations or physical improvements to non-SFC properties within the district would trigger reassessment and subsequent property tax increases. What specific criteria would be utilized by the assessor's office for determining whether improvements to property warrant reassessment? Include the specific language from the governing ordnance regarding the assessment methodology along with illustrative examples.
2. The developer should address the issue of the City's potential "moral obligation" to cover debt service on the TIF bonds in the event that the increment is insufficient. The developer should explain what has been the reaction of other municipalities in other states regarding the so-called "moral obligation." If a special tax district (such as what is used by the City of Baltimore) would not be applied here as a potential backstop to cover debt service, what would be available to provide such a backstop and insulate the City from pressures to take on that obligation? See further discussion of the moral obligation below in the Risk Analysis section.

Eminent Domain Linkages

1. Comments received during the comment period for the drafting of the SEQR analysis scope indicated concerns about the application of eminent domain in connection with the establishment of a TIF district. See Comments 54 and 55 in the March 30th TIF study scoping memo. Additional clarity should be provided on this issue. Explain the distinction between City Council votes regarding the establishment of a TIF district and the exercise of eminent domain.

Retail Component Market Analysis & Competitive Positioning

1. Exhibit III-3 shows a map illustrating the relative trade areas (spheres of influence) of the Project site and downtown White Plains. The map should highlight major streets and/or zip code boundaries to facilitate assessment of the trade area boundaries. Also, separate maps should be shown to illustrate the overlap or lack thereof to the trade areas for the Ridge Hill and Cross County projects.

2. Retail Competition. The discussion of competitive retail centers that begins on pg. III-9 should indicate the perceived market positioning (e.g., mid-market vs. up-market) for each of the cited retail centers.
3. Household Expenditure Potential. To facilitate review of the household expenditure projections include a table showing the household counts in each of the zip codes shown in Exhibit III-2.
4. Required Capture of Unmet Demand. An affirmative argument is presented in the second paragraph of pg. III-21 that a "significant share of the estimated unmet retail potential could be captured at the SFC Project." More explanation is needed as to the argued influence of the site characteristics in achieving the projected market share. Is the daylighting component assumed here to be an element that will differentiate the Project from other retail centers that don't have similar features? Are there other design features that are deemed to enhance the competitive position of the SFC Project vis-à-vis other retail centers? What are these and why? What does the consultant deem to be the access features that will provide the Project with sources of competitive advantage against other retail centers?
5. Refer to Item #1 in the Council Majority Leader Comments section of the March 30, 2007 Preliminary TIF Feasibility Study scope. The scope required information on market rent levels at other major retail clusters in the region. No such information is presented. Likewise, no information is presented by the consultant regarding the likely rents to be commanded by the SFC Project.
6. Refer to Item #1 of the Additional Scoping Elements section of the March 30, 2007 scoping memo. No information is presented regarding how the demographic profile of the SFC trade area cited by the consultant compares to the threshold population and other demographic requirements of anchor tenants likely to be attracted to the Project. What are the minimum population counts and average household income levels sought by big box retailers, cinemas, supermarkets and, on average, by restaurant chains contemplated as part of the retail mix? How do these threshold requirements compare to the demographic metrics cited in the ERA analysis?
7. Refer to Item #4 of the Council Majority Leader Comments section of the March 30, 2007 scoping memo. Information was asked for regarding potential synergies between the hotel and baseball stadium components and the retail component. No discussion is provided regarding the specifics of such synergies. In what ways, if at all, will the ballpark create value for or enhance the economics of the retail component? In what ways, if at all, will the hotel component do the same? Are the synergies mutual and do they flow in both directions? What examples are there for similar mixed-use projects and what has been the experience of those projects with regards to cross-patronage of customers of one component for another?

Residential Component Market Analysis

1. Information should be provided regarding the credentials of The Marketing Directors. Such information should include the type and number of assignments they have worked on including those in other emerging markets/neighborhoods in Westchester and the Greater New York area (e.g., The Kalahari project in Harlem of Full Spectrum Development).
2. Absorption. The consultant affirms that the units will be absorbed prior to occupancy in a two year pre-sale effort for each tower. What underlies this belief? What do they project as an absorption schedule? What demographic data or market data did they look at to come to this conclusion? In the aftermath of recent mortgage market conditions, are they still confident that the absorption schedule would hold? If housing market conditions during the projected pre-selling period are weak, how easily can the units be marketed as rental apartments? How strong would the market support be for a substantial repositioning of the towers as rental buildings?
3. Competition Analysis. The report does not include information on what would constitute competitive projects for Palisades Point and River Park Center. An evaluation of competitive projects within the appropriate market area should be included along with a map highlighting the location of those competitive projects.
4. The MuniCap TIF projections assumed that rents for apartments at Palisade Point would command a 15% premium over apartments at River Park Center. Do The Marketing Directors agree with this differential?

Office Component Market Analysis

1. The letter leads with a statement that suggests that there is a significant imbalance between the City's proportion of the County population and its proportionate share of the commercial real estate inventory. Why is this significant? Does this necessarily suggest that there is unmet demand for additional office space? Is the broker's reference to "commercial real estate market" only referring to office space or all forms of commercial real estate? This should be clarified.
2. Also in the first paragraph, C&W suggests that the commercial market needs to grow. What is the basis for making this assertion? Are there examples of office tenants or users who were interested in locating in Yonkers but could not have their space needs met? If so, these examples should be cited in a table (with identities protected, if necessary) along with the amount of space they were seeking, when they were in the market, and what type of use they represented. Such data would be one way to provide a cogent argument of unmet demand in Yonkers.
3. The last sentence of the first paragraph suggests that the only source of competition within the Westchester office market is the White Plains CBD. What about the Route 119 corridor in Tarrytown or the 160,000 sq. ft. future office component of the Ridge Hill mixed-use development? The office portion of the TIF feasibility analysis should identify all competitive office clusters. This could be done by including as an addendum an office market analysis of the County previously issued by Cushman & Wakefield or other major

brokerage firms. Including County market analyses from more than one source would bolster the perceived reliability of the data.

4. Locational Strengths. C&W asserts that proximity to a train station will be a key driver of pricing and space absorption. C&W suggests that the Project's office component is "within walking distance to the Metro North Train Station." How realistic is it that significant numbers of office employees will walk from the train station to the River Park Center or Cacace given the sloping topography between the train station and the former? Isn't the downtown White Plains office district better-connected to its train station?
5. Strength of the County Commercial Market. Data should be provided indicating the overall size of the County office market. Also, what types of firms are likely to be prospects for the SFC office components and what are their special requirements, e.g., floorplates, etc?
6. Include a map or table that specifies all of the County submarkets and their relative size.
7. On pg. 3, C&W suggests that the residential and retail components "will inevitably cause the rental rates to climb further while the vacancy rate plummets." This suggests synergies for the office component as a result of its location within a mixed-use project. While this is an accepted feature of mixed-use developments, examples should be cited of other mixed-use projects and how the marketability of the office component was supported or enhanced by residential and retail components. Such examples will help bolster the argument for the market support of the office component.
8. Projected Rents. Asking and taking rents of $35 and $30 psf are reported. Are these rent levels of sufficient strength to support the feasibility of the office component and induce new construction?
9. What is the likely absorption rate to be for the SFC office component? How long will it take to reach a stabilized level of occupancy?
10. For readers unfamiliar with Cushman & Wakefield and their authority as a source of information, information should be included in their report regarding their size in the market and their credentials. This should include comparable leasing and market analysis assignments they have conducted in the County.

<u>Hotel Component Market Analysis</u>

1. Page III-23 indicates that 35% of the 5,300 hotel rooms in the County are in facilities with 100 to 200 rooms. What is the character of the hotel stock of the remaining 65%? Is it known what proportion is in facilities over 200 rooms?
2. Is there past evidence to suggest demand for hotel rooms in downtown Yonkers? To what extent, if any, would the government center be a generator of room-nights for the hotel?
3. The June 14, 2007 letter from Urgo Hotels indicates that they would be interested in developing a mid-tier hotel such as a Courtyard. What do they see as generators of demand for such a flag? How do these compare to their demand generators for their other flags in Westchester? What process, if any, is involved in Marriott's approval of the site and the flag for this location?
4. The list of the hotel developer's current portfolio of hotels was not included. Please provide.

5. Urgo refers to Westchester as having a "dynamic economic climate and hotel market." What characteristics and features do they deem to be the drivers of such dynamism?
6. Urgo refers to the Marriott brands as being performance leaders in their respective markets. Is there data they can cite to illustrate this including data regarding how such flags compare to competitors along metrics such as occupancy rates and average daily rates? Also, for readers unfamiliar with hotel terminology please define RevPar penetration rate and the significance of the 124% threshold.
7. What does Urgo anticipate would be the achievable average daily rate for the subject hotel?
8. The summaries of the Historical Operating Results of the Comp Set and the Westchester County Market Tract were not included.

Ballpark Facility Analysis

1. Of all the components of the proposed mixed-use project, the least amount of information is provided on the ballpark in the TIF feasibility study. Although the Socio-Economic section of the pDEIS provides details regarding the projected operations, this information should be duplicated in the TIF feasibility study.
2. The ballpark is not included in the projections of tax increment. The implication is that the intent is for the ballpark to be owned by the City or the public sector. For clarity to the reading public, this should be explicitly stated if that is the developer's intent.
3. More information should be provided to evaluate the risk profile of this component. Information on the operations of comparable projects such as the downtown Newark ballpark should be included. Such information should include, but not be limited to, attendance rates, success in attracting alternative events such as concerts, utilization factors of the structured parking, etc.

Parking Analysis

1. Refer to Item #7 of the Additional Scoping Elements section of the March 30, 2007 scoping memo. No information is provided regarding the impact of any green building requirements or standards on the costs of the structured parking. How much of a premium might this involve?
2. The Cushman & Wakefield letter dated May 10, 2007 proposes a parking requirement of two spaces per 1,000 sq. ft. for the office component, i.e., 1,000 spaces. How does this parking requirement compare to the needs of the other components in sizing the parking facilities?
3. Information should be provided in the report that provides the detailed rationale for the proposed sizing of the parking garage and the number of parking spaces. The determining factors should be explained such as zoning requirements, market requirements imposed by anchor retailers, etc. Since the structured parking is the most costly component of the proposed infrastructure investment, it should be **definitively** demonstrated why the parking garages would not meet Project requirements if a smaller number of spaces were built.

Financial Gap Analysis

1. Item #5 of the March 30th scoping memo specified certain information for assessment of the financial gap suggested by the developers' request for public sector investment. That information has not been submitted and has been the subject of continued discussion among the mayor's team, the developer, and the Real Estate Committee co-chairs. In order to advance the process under the Municipal Redevelopment Law to approve or disapprove the tax increment funding request and determine at what level the request should be funded (if approved), it is essential that all parties agree to a mechanism for the release of the required information that adheres to conventional fiduciary obligations of public sector bodies while addressing legitimate confidentiality concerns of the developer.
2. The City of Baltimore provides a reasonable model for the public sector information requirements for evaluating and approving tax increment bond issues. Baltimore requires that the TIF funding must meet both a "but-for test" and a "but-why test". The but-for test is accomplished "through the evaluation of the project financial models, developer pro-forma and equity returns and an evaluation of the general risk and financeability of the project." Baltimore Development Corp., a quasi-public entity which serves as that city's lead agency for the TIF approval process, also reports that "this test allows BDC to establish that public subsidy does not unduly enrich the developer, that the project is feasible with the public investment but not feasible without it and that the developers' expectations with respect to markets and growth are reasonable and consistent with City expectations." Since SFC has previously cited Baltimore as a model of how TIF is used in past community presentations, Baltimore's underwriting process offers a useful precedent familiar to the Yonkers development team.

Comparable TIF Projects

1. The March 30th scoping memo (page 4, Comment 69) indicated that the study should include "examples of other comparable development projects across the nation and NYS and the level of public sector support provided for those projects expressed as a percentage of total development costs." Please supply this information. Examples might include the projects done in the City of Baltimore that have been successful in covering debt service as well as those which haven't.

TIF Projections

1. **The TIF projections prepared by MuniCap should include a letter by the chief assessment officer of the City indicating that he has reviewed the projections and that the underlying assumptions are consistent with the City's assessment practices.** This would provide an independent opinion of a municipal officer charged with a fiduciary responsibility to the City.
2. The bond sizing model shown in the MuniCap report assumes a certain bond coupon rate (5.25%). Explanatory information should be provided regarding the reasonableness of this assumption given Yonkers financing history, current market conditions, and market pricing

factors for this type of issuance. Input provided by the bond underwriters should be explicitly stated. Similar corroborating information should be provided for the reinvestment rate assumption.

3. Page 17 of the MuniCap report shows projected debt service coverage ratios (DSCR) for the bonds ranging from 110% in the early years to 134% towards maturity. Given the novelty of tax increment financing in New York State, an initial DSCR of 110% seems aggressive. The City of Baltimore underwrites its TIF issues based on a 120% DSCR. A lower DSCR ratio in the early years of the issuance increases the likelihood that failure to achieve the projected increment will result in shortfall of cash flow to fully pay the debt service in a particular year. The TIF projections might also consider the use of a tranche of capital appreciation bonds (zero coupon issues) to bolster the debt service coverage ratio during the early years of the bond issue.
4. The projections presented constitute static projections that I assume represent the developers' assumption of the most likely case for the increment projections and bond sizing. This begs the question of whether sensitivity analyses of key variables have been done to evaluate the impact on the increment projections and the bond sizing. Sensitivity runs should be performed on the bond coupon rate since that effects the bond sizing. In addition, sensitivity runs should be done on the rental rates assumed on both the residential and retail components of the mixed-use project since they are the major contributors to the projected assessed valuation for the Project. The sensitivity analyses would show how much the projected increment and bond sizing would vary if the bond coupon rate was to increase above 5.25% and the rental rates came in lower on the residential and retail components. The ranges of interest rate increases and rental rate decreases evaluated for the sensitivity analysis should incorporate worst case scenarios including the necessity of leasing and financing the Project in a recessionary environment.
5. The projections assume various rental rate assumptions for the retail and office space components. Has the developer received any letters of intent (LOIs) from anchor users for these components? How do the rents proposed in the LOIs compare to the assumptions in the MuniCap projections?

<u>Project Risk Analysis & Timing Issues</u>

1. Refer to Item #6 of the Additional Scoping Elements section of the March 30, 2007 scoping memo. Information should be provided regarding factors that could cause the proposed public sector subsidy to increase as well as their probability. These would include, but not be limited to, increases in labor and material costs relating to the construction of infrastructure improvements, increases in bond financing costs due to financial markets factors, the absence of other public sector subsidies contemplated by the developer, retailer demands for increased numbers of structured parking spaces, additional mitigation measures required by the SEQR process, County failure to allow the capture of their proportionate share of the tax increment, more stringent bond underwriting criteria, and failure of the Project to achieve the developer's and its lenders and investors minimum threshold returns for financial feasibility. In concert with the aforementioned financial gap

analysis, sensitivity analyses should be provided to evaluate the effects on the public sector investment of the most salient project risk factors.

2. Refer to Item #8 of the Additional Scoping Elements section of the March 30th memo.
3. **No attention has been provided to the potential costs to the City in a worst case scenario of a perceived "moral obligation" associated with the bond issuance.** It has been represented that the bonds would not constitute a general obligation issue with a legal obligation by the City to cover debt service. However, tax increment financing issued in other jurisdictions in some cases has been viewed by the capital markets as having an implicit moral backing of issuing municipalities – even in the absence of a legal obligation to cover the debt service should the increment be insufficient to do so. Should nonrepayment of the TIF debt occur, there could be a scenario in which this might have an adverse impact on the City's current general obligation debt or the terms of floating future GO debt. The City of Baltimore reports that this is a concern in its underwriting of TIF bonds although it has readily embraced them as both a useful economic development and municipal financing tool and continues to use TIF. Therefore, the Applicant should outline what protective measures (besides underwriting at an acceptable debt service coverage ratio) can be applied here to prevent the eventuality of the City having to react to reputation pressures from the bond investors and the capital markets.

Preliminary Plan

1. The submission of the preliminary plan in advance of the completed TIF study is premature. However, the developers' submission of this document serves to initiate discussion of the proper scope of this second study document outlined under the Municipal Redevelopment Law. Section 970-e of the MRL specifies items that must be included in the preliminary plan; however, it does not preclude the Council from adding other items to the scope.
2. The level of detail specified under Section 970-e for the work products in the following subsections is vague: 970-e (a), 970-e (b), 970-e(c), 970-e (e), and 970-e (f). Therefore, the cursory responses to these sections by the developer would seem to be acceptable upon proper completion and acceptance of the TIF feasibility study.
3. Section 970-e (d) requires a higher standard of response in that it suggests descriptive detail regarding the specifics of how the proposed redevelopment complies with the master plan. Accordingly, the developers' one paragraph response to address this item is inadequate. Specificity should be provided regarding the list of Project elements and features that are consistent and inconsistent with the City's comprehensive plan. This descriptive analysis should cite the specific sections of the comprehensive plan.
4. Legal council to the City Council has previously advised that a completed environmental impact statement (i.e., FEIS) must be adopted as a condition precedent to the adoption of the preliminary plan. It would seem, however, that the other elements of the preliminary plan could be completed and accepted pending completion of the FEIS.